

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-
MOTION

NOTICE OF OMNIBUS

YEHEZKEL ELIA AND DAVID ELYAHO, 07 Cr. 543 (CLB)

Defendants.

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S I R :

PLEASE TAKE NOTICE, that upon the annexed affirmation of JOSEPH A. VITA, ESQ., and all prior proceedings heretofore had herein, the undersigned will move this Court before the Honorable Charles L. Brieant, Chief United States District Judge for the Southern District of New York, presiding at the United States Courthouse located at 300 Quarropas Street, White Plains, New York 10601, at a date and time to be set by the Court, for an ORDER granting the following relief:

1. Dismissing count 1 of the indictment upon the grounds of improper duplicity in accordance with Fed. R. Crim. P. 12(b)(3)(B).

2. Severing the counts in which David Elyaho is solely named from the rest of the indictment due to misjoinder, Fed. R. Crim. P. 8(b).

3. Severing the case of DAVID ELYAHO from that of co-

defendant, YEHEZKEL ELIA due to prejudicial joinder, Fed. R. Crim. P. 14.

4. Directing the Government to make early disclosure of a witness list, its case-in-chief exhibits, witness statements and impeachment materials, and Rule 404(b) evidence, if any.

5. Adopting co-defendant's motions to the extent applicable to defendant and reservation of right to make additional motions; and granting such other and further relief as the Court may deem just and appropriate.

Dated: January 9, 2008

Respectfully Submitted,

Joseph A. Vita, Esq.
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Port Chester, New York 10573
914-939-5401

To: CLERK OF THE COURT
UNITED STATES DISTRICT COURT
300 QUARROPAS STREET
WHITE PLAINS, NEW YORK 10601

HONORABLE CHARLES L. BRIEANT
CHIEF UNITED STATES DISTRICT JUDGE
UNITED STATES COURTHOUSE
300 QUARROPAS STREET
WHITE PLAINS, NEW YORK 10601

HONORABLE MICHAEL GARCIA
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF NEW YORK
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